IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Kheta Ram Vs. Union of India
S.B. CR. REVISION PETITION NO.986/2006

Against order dated 10.10.2006 passed by Special Judge, NDPS Cases, Churu in Criminal Case No.05/2005 (State Vs. Kheta Ram)

DATE OF ORDER :: 10th November, 2006.

PRESENT

HON'BLE MR.JUSTICE SATYA PRAKASH PATHAK

Mr. N.L. Joshi for petitioner.
Mr. M.S. Bhati for respondent Union of India.

BY THE COURT:

By this petition challenge has been made to an order passed by the learned Special Judge, NDPS Cases, Churu in Criminal Case No.5/2005 – State Vs. Kheta Ram, whereby allowing the application moved under Sec.311 of the Cr.P.C. the witnesses are ordered to be recalled.

The submission of the learned counsel is that in the instant case, the trial Court committed serious illegality while allowing the application under Sec.311 of the Cr.P.C. for the simple reason that in the instant case after close of the defence evidence and submitting written arguments, the application has been allowed, which has seriously prejudiced the case of the petitioner, therefore, the order passed requires to be set aside. It has also been submitted that the case before the trial Court was fixed for final arguments, therefore, the Court was required to hear the case on the basis of material already available on record. It is submitted that purpose of Sec.311, Cr.P.C. is that in a proper case witnesses are required to be recalled and not as a matter of routine. Learned counsel has placed reliance on authorities reported in 2006 (2) Criminal Law Reporter (Raj) 1256 (Ramdev Vs. State of Rajasthan) and AIR 1989 SC 1785 (Mir Mohd. Omar Vs. State of West Bengal.

I have considered the submissions made before me.

A perusal of the impugned order indicates that the trial Court found that for reaching to a just decision in

the case, it was essential to examine again the witnesses stated in the order under challenge. Thus, it appears that the Court was of the opinion that for correct and just decision in the interest of justice recalling of the witnesses was essential. A perusal of Sec.311 of the Cr.P.C. clearly makes mention of the fact that Court at any stage of trial is competent to recall the witnesses already examined and the witnesses those who have been examined, on being satisfied that for reaching a decision in the case it is essential, then the Court can pass appropriate orders.

The authority cited by learned counsel for the petitioner viz., Ramdev Vs. State of Rajasthan, is not helpful to the petitioner for the simple reason that in this case facts of the matter were absolutely different inasmuch as the prosecutrix was already examined and a detailed cross-examination was done whereas in the present case, the Court after considering the entire matter reached to the conclusion that it is just and proper to recall the witnesses.

In another case cited by learned counsel i.e. Mir Mohd. Omar Vs. State of West Bengal, the Hon’ble Apex

Court observed that the Courts have the powers to recall witnesses where it is satisfied that it is necessary to recall the witnesses for reaching a just decision in the case.

After having carefully perused Sec.311 of the Cr.P.C., the authorities cited by learned counsel and the order passed by the learned trial Court, I do not find that the trial Court has committed any illegality or irregularity which may require interference by this Court under its revisional jurisdiction. Therefore, finding no merit in the revision petition, it requires to be dismissed.

In the result, the revision petition stands dismissed summarily.

(SATYA PRAKASH PATHAK)J.

/jpa